

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



FILED

DEC 11 2012

CLERK, US DISTRICT COURT, WDNY

-----X
JASON D. COOPER

Plaintiff,

-Against-

Complaint

12CV1227
Under the

Sc

Civil Rights Act 42 U.S.C § 1983

**NEW YORK STATE DEPT. OF CORRECTIONS AND
COMMUNITY SUPERVISION, COMMISSIONER
BRIAN FISCHER, SUPERINTENDANT OF
FIVE POINTS CORRECTIONAL FACILITY,
MICHAEL SHEAHAN, CORRECTION OFFICERS:
MALTESE; T. HILL;
AND OTHER UNKNOWN OFFICERS.**

Respondents

-----X
Excessive Force Claim

On Sunday, October 21st, I Jason Cooper -Dep. ID #11A 5404- (hereinafter Plaintiff) was assaulted by Officer T. Hill and other unknown actors at Five Points Correctional Facility. On the above stated date, approximate time unknown, while securing the area as a result of altercations taking place, for which the Plaintiff had no involvement, I was handcuffed and then brutally assaulted without provocation. The aforementioned officer punched and kicked me in the face and ribs while I was in restraints, thereby showing no cause for such matters as I could not pose a threat to him or any other officers under such circumstance. I then was escorted to the

Gymnasium still under heavy restraint, pat frisked, and subsequently escorted to the infirmary to be treated for injuries incurred from the assault. I was then brought to the Draft Processing Area where Officer Maltese, under direct order, made me enter the shower room where four other unknown officers awaited as I was forced to my knees while Officer Maltese forced a plastic bag over my head essentially cutting off my air supply and causing me to gasp for air as the other officers kicked and punched me. An unsanctioned interrogation commenced, and when I couldn't provide any answers as to the events that took place in the yard earlier, I was verbally abused and threatened with heavy racial epithets including the word "nigger", which was used repeatedly. I eventually passed out from the insistent torture and awoke later to the threats of Officer Maltese and his kicking me (Plaintiff) in the testicles multiple times. He then reiterated to me that if I told anyone about these events, he would kill me.

Jason D. Cooper, Pro se/Plaintiff
Five Points Correctional Facility
State Route 96, P.O. Box 119
Romulus, NY 14541

CC.

File

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Jason D Cooper

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

NEW YORK STATE DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION, BRIAN FISHER,
SUPERINTENDANT OF FIVE POINTS CORRECTIONAL FACILITY,
MICHAEL SHEAHAN, CORRECTION
OFFICERS MALTESE, T. HILL AND OTHER UNKNOWN
OFFICERS.

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the

Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Jason D Cooper
ID # 11A5404
Current Institution Five Points
Address State Route 96, P.O. Box 119
Romulus, New York 14541

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name Officer Maltese Shield # N/A
 Where Currently Employed Five Points Correctional Facility
 Address State Route 96 P.O. Box 119
Romulus, New York 14541

Defendant No. 2

Name Officer T. Hill Shield # N/A
 Where Currently Employed Five Points Correctional Facility
 Address State Route 96 P.O. Box 119
Romulus, New York 14541

Defendant No. 3

Name NEW YORK STATE DEPT. OF CORRECTIONS Shield #
 Where Currently Employed AND COMMUNITY SUPERVISION
 Address

Defendant No. 4

Name BRIAN FISHER COMMISSIONER Shield #
 Where Currently Employed ALBANY
 Address

Defendant No. 5

Name SUPERINTENDANT OF FIVE POINTS CORR. Shield #
 Where Currently Employed MICHAEL SHEAHAN
 Address STATE ROUTE 96, P.O. Box 119
ROMULUS, NEW YORK 14541

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? I was tortured by the CIO's using unhumane tactics, Plastic Bag over head
Kicked in the testicals numerous times

B. Where in the institution did the events giving rise to your claim(s) occur? In the
draft room in the draft shower being Strip Searched

C. What date and approximate time did the events giving rise to your claim(s) occur? On
Oct 21 2012 at or around 3am

D. Facts: There was a riot in the yard the escorting officers punched and kicked me in my face & ribs numerous times following I was escorted to the gym and searched following I was escorted to the infirmary photographed and had a laceration above my right eye treated. Following I was escorted to holding pin D following that I was escorted to the shower room in the Draft room an tattered plastic bag over my head causing me not to breath Asked who started the riot I told the c/o I was not involved I was kicked in my legs back head and checked with the plastic Bag another time Then ask to strip handcuffs were released I got undressed went thru regular strip search when ask to bend over to check my cavity the c/o's kicked me in my testicals Numerous times calling me a nigger This happened to several other inmates I then was escorted to holding pin B where I awaited to talk to an investigator and counselor who released me back to population stating that they know I had nothing to do w/ the situation and ask me to say I hit my face on a table in return they will move me to any location closer to Home And I had not received any tickets

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I received a black eye a laceration to my right eye on the top and bottom, Bruised or Broken ribs and bruises between my groin inner thigh I wrote to medical 10-30-12 10-31-12 was seen but only given motrin I told the nurse I see spots in my right eye and my head was numb and front teeth numb they only told me they will tell the eye doctor.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Five Points Correctional Facility

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☐ Do Not Know ☒

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

I filed grievance with inmate grievance program Made Statement to LT Mindie and to A person from IG

1. Which claim(s) in this complaint did you grieve? Being tortured and beat without having any thing to do with the situation Assault
By the people who suppose to protect my rights while under their care

2. What was the result, if any? I spoke to LT Mindie, Counselor Alumbo and a representative from IG and wrote a grievance as of 11/19/12 nothing has been done

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: My Family called a lawyer and I was scared to file because I was in fear for my life in that Facility

2. If you did not file a grievance but informed any officials of your claim, state who you

informed, when and how, and their response, if any: I wrote a letter to Counselor Pulumbo who ~~was~~ was one of the first people who ~~was~~ interviewed me the night of the incident, I also talked to LT. Minde and made a written statement on the night of Thurs 11.1.12 and signed in A office room in the infirmary

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. My Family called numerous officials and tried to talk to Counselor Pulumbo many time ~~as~~ as I am still waiting to speak to a lawyer 11.5.12 Asked to be moved in fear for my life At 5 points correctional Facility

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

monetary compensation I am seeking 4.0 million because my civil rights were violated and I was tortured and Assaulted by officer Miltese and officer T. Hill beyond their color of law with disrespect to human life. I sustained broken ribs and mental trauma to respect or believe any officer will defend my rights while I am incarcerated or on the streets. Pray that this will help end inhumane tactics used by any officer under the color of law Punitive damages to end all crude and unusual punishment by acting officers to use more civil tactics that will find correct accusations in finding rightfull perpetrators

IN ADDITION THE PLAINTIFF IS SEEKING COMPENSATORY, DECLARATIVE, INJUNCTIVE RELIEF, AND PUNITIVE DAMAGES AS A RESULT OF THE PAIN AND SUFFERING AS WELL AS MENTAL ANGUISH INCURRED BY THE EXCESSIVE FORCE DISPLAYED BY THE NAMED AND UNKNOWN ACTORS.

VI. Previous lawsuits:

On
these
claims

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☒ No ☐

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Mack Butler, Dashaun Sims, Clyde Lofton, Paul Alver, Kevin King, Ricky Lynch
on the behalf of themselves and all other similar situated.
 Defendants Suffolk County, Vincent Demario in his individual and official capacity,
JOSEPH T CARCAPPÀ individual and official capacity and John Meyericks et al

2. Court (if federal court, name the district; if state court, name the county) EASTERN DISTRICT OF NEW YORK FEDERAL

3. Docket or Index number 11-cv-02602

4. Name of Judge assigned to your case Judge Seybert (JS) (GRB)

5. Approximate date of filing lawsuit Class Certification April 5 2012

6. Is the case still pending? Yes ☒ No ☐

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) NO

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ☐ No ☒

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ☐ No ☐

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 22 day of November, 2012.

Signature of Plaintiff

Inmate Number

Institution Address

Jason D Cooper
11A5404
Five Points Correctional Facility,
State Route 96 P.O Box 119
Romulus, New York 14541

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 22 day of November, 2012, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Jason D Cooper

Inmate Copy

11.5.2012

To Inmate Grievance Program

Statement

On Oct 21 2012, Sunday in the main yard
A riot broke out with inmates and c/o's to
regain control of the yard c/o's instructed all
~~in~~ inmates to put their hands up on the
fence I Jason D Cooper Complied to all instructions
even that I had nothing to do with the situation
I was pulled off the gate instructed to put my hand
behind my back to be handcuffed I also complied
I was escorted to the entry gate of the Main yard.
told to face the gate and also instructed to ~~AS~~
kneel on the ground I complied while kneeling
I was ask why am I mouthing off I said I had
Nothing to do with the situation I was playing cards
My card are in the front pocket of my hoodie I was
told to shut up then was kicked to the right
side of my face and kicked numerous times in
my ribs Following that I was ~~taken~~ escorted to
the gym thru the main yard entrance their I
was instructed to sit with my back against
the wall I complied I sat until I was instructed
to stand to be pat frisk I complied Following I
was ~~taken~~ escorted to the infirmary to take
pictures of a laceration over my right eye
and of my ribs and right shin Following I
was escorted to the draft room wher I was
sat in holding pin D where I waited to

Be striped searched Following I was escorted
 to the shower room where I was striped
 of clothing and instructed to ~~knelt~~ kneel
 on the ground I complied then I was taurchered
 with the acting C/O placed a plastic Bag
 over my head and checked me, asking who
 started it this happend two times I respondet
 I dont know Following that I was kicked and
 punched in my legs, back, head nemerous times
 Following I was instructed to stand up C/O that
 was questioning me told me he was going to make
 me drink his piss and had a bottle of some
 kind of substance in his hand he then called me
 a Nigger and started Normal Strip Frisk
 Proceedurs when I was unhandcuffed to spread
 my cheeks I bent over the C/O kicked me
 3 or 4 times in my testicals Following I was
 instructed to get dressed I was escorted to
 holding Pin B Following that I was escorted
 to the regular frisk room to be interviewed
 by Counceler Palumbo and a nother investigator
 I was told they know I had nothing to do with
 the riot I was then escorted to 11 block to
 my present cell 11A244T I was served no tickets
 and just placed on 24hr and returned to movement
 When the facility was resumed movement I wrote
 a Statement to LT Minde on Thurs. ¹¹⁻¹¹⁻¹² stating
 All information The only out come is that these

unhumane tactics not be used and the officer's who escorted me to and from the shower be held responsible and all others involved I am emotionally disturbed and in constant fear that it will happen again choked someone with plastic bags till they can't breathe and degraded by someone kicking me in my testicals and calling me a nigger was not in the C/O's job description under the color of law. I did not write this sooner in fear for my life, but I did write a statement to LT Minde, I am writing this because of that statement. And I would like to be moved out this facility because I fear for my life from the C/O's retaliation.

Jason D Cooper
Jason D Cooper

11.5.12

DIN# 11A5404